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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/639,586

08/13/2003

Isabelle Hansenne

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7696

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7590

06/22/2006

BUCHANAN INGERSOLL PC
(INCLUDING BURNS, DOANE, SWECKER & MATHIS)
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EXAMINER

DODSON, SHELLEY A

ART UNIT

PAPER NUMBER

1616

DATE MAILED: 06/22/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/639,586

Applicant(s)

HANSENNE ET AL.

Examiner

SHELLEY A. DODSON

Art Unit

1616

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-22 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-22 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. ____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

SHELLEY A. DODSON
PRIMARY EXAMINER

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 8/2003; 1/2006.

- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: ____.

DETAILED ACTION

Claims 1-22 are pending in this application filed 8/13/2003.

Applicant's claims are directed toward aesthetically and SPF improved UV-sunscreens comprising glass microspheres.

Claim Rejections - 35 USC § 103

1.

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2.

Claims 1-22 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hansenne et al USP No. 6,143,282 in view of Painter et al USP No. 6,117,435.

Hansenne et al disclose topically applicable cosmetic/dermatological sunscreen compositions for the UV-photoprotection of human skin and/or hair against the damaging effects of UV-A and UV-B irradiation, more specifically solar radiation. In columns 2-8, Hansenne further discloses that both hydrophilic and lipophilic suncreening agents are present. More specifically, benzotriazoles, octyl salicylates, cinnamates triazines etc. Note specifically column 8, lines 10-20 for this disclosure. In column 8, lines 22-25 Hansenne also discloses that artificial tanning agents are employed, specifically dihydroxyacetone (DHA). In column 8, lines 26-39, Hansenne discloses that metal oxide sunscreens are also present in the referenced composition. Hansenne discloses all aspect of the claimed invention with the exception of the presence of glass microspheres or borosilicate.

Painter et al disclose compositions for topical application to the skin comprising silica beads and pigment to improve the aesthetics and natural look of the cosmetic composition. In column 4, lines 15-30, Painter discloses that the formulation contains spherical powders or beads which can aid in reducing or softening any metallic look. Painter further discloses that the presence of said microspheres are known in the cosmetic industry for their light scattering properties on the skin. Painter further discloses that the glass microspheres are calcium aluminum borosilicate or sodium borosilicate or a product called Luxsil™. Painter further discloses that said product is present in an amount of from about 0.001% to about 20% and the particle size is less than 100 microns in size. This is the same amounts and proportions claimed by applicant in the instant case.

It would have been obvious to one of ordinary skill in this art at the time the invention was made to have included the borosilicate microspheres of Painter into the suncreening compositions of Hansenne in view of the teaching of Painter that said microspheres are known in the industry for their aid properties as well as their light scattering properties on the skin. This is in the absence of any clear showing of unexpected results attributable the presence of glass microspheres in the claimed sunscreen compositions of the instant invention.

3.

Information Disclosure Statement

The information disclosure statements (IDS) submitted were noted and the submissions are in compliance with the provisions of 37 CFR 1.97. Accordingly, the examiner has considered the information disclosure statements and made them of record.

Telephone Inquiries

4.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Shelley A. Dodson whose telephone number is (571) 272-0612 and fax number (571) 273-0612. The examiner can normally be reached on Monday-Thursday from 7:30 a.m. to 5:00 p.m. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Johann Richter can be reached at (571) 272-0646.

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The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306. The hours of operation are Monday through Friday, 8:45 AM to 4:45 PM. This new location should be used in all instances when faxing any correspondence numbers to Group 1600. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Shelley A. Dodson
Primary Examiner
Art Unit 1616

June 20, 2006